

BOISE, MONDAY, MAY 1, 2006 AT 8:50 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,

Plaintiff-Respondent,

v.

LAWRENCE ROBINSON,

Defendant-Appellant.

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Docket No. 32691

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Honorable Joel D. Horton, District Judge.

Manweiler, Manweiler, Breen & Ball, PLLC., Boise, for appellant.

Honorable Lawrence G. Wasden, Attorney General, Boise, for respondent.

On March 11, 1986, Lawrence Robinson (Robinson) pleaded guilty to a violation of Idaho Code § 18-6608, forcible sexual penetration by the use of a foreign object. Following his sentencing hearing, Robinson was placed on probation for ten years. Ten years later, after successfully completing probation, Robinson filed an application to have his guilty plea set aside and his case dismissed pursuant to I.C. § 19-2604, which was granted. Then, in August of 2004, Robinson filed a motion to be released from the sex offender registry and to have his name expunged from the central registry. After a hearing on the matter, the district court denied Robinson's motion. Robinson timely appeals this denial.

On appeal, Robinson argues that because his guilty plea was set aside and his case was dismissed, his guilty plea has in effect been erased and he is no longer required to register as a sex offender pursuant to I.C. § 18-8304(1)(c). The State argues that because Robinson has not met the statutory requirements set forth in I.C. § 18-8310, he is not entitled to have his name expunged from the central registry and must still register.

BOISE, MONDAY, MAY 1, 2006 AT 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

BRUCE BYRON BEDKE,

Plaintiff-Respondent,

v.

**PICKETT RANCH AND SHEEP CO.,
an Idaho Corporation,**

Defendant-Appellant.

Docket No. 31445

Appeal from the District Court of the Fifth Judicial District of the State of Idaho, Cassia County. Honorable Monte B. Carlson, District Judge.

Racine, Olson, Nye, Budge & Bailey, Chartered, Pocatello, and Don F. Pickett, Oakley, for appellant.

Jeffery E. Rolig, P.C., Twin Falls, for respondent.

This is an appeal from decisions of the district court that a 1964 agreement between the parties created an easement across the property of Pickett Ranch and Sheep Company (Pickett Ranch) in favor of Bruce Byron Bedke (Bedke). The district court found that the agreement created an easement for a pipeline across real property owned by Pickett Ranch, the easement was irrevocable, and actions by the Bedke family were not grounds to void the easement. Later, in denying Pickett Ranch's motion to amend, the district court found that any change made to the pipeline from its original path was not significant, was done for the purpose of repair and maintenance, and did not destroy the easement. Finally, the district court granted Bedke's request for costs and attorney fees.

On appeal, Pickett Ranch raises five issues contesting the district court's findings. Among them, Pickett Ranch contends: 1) the district court erred in failing to make a finding of fact concerning the original location and width of the easement; 2) that the district court erroneously expanded the width of the easement; 3) the district court erred in failing to find the agreement was terminated when Bedke changed the location of the easement; 4) the district court failed to address the impact of what Pickett Ranch contends is Bedke's refusal to refill large

holes on the Pickett Ranch property; and 5) the district court erred in granting Bedke attorney fees and costs as the prevailing party.

Bedke rejects Pickett Ranch's arguments and asks this Court to affirm the district court and award attorney fees on appeal.

BOISE, MONDAY, MAY 1, 2006, AT 11:10 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

MARK MUMFORD,)	
)	
Plaintiff-Appellant,)	
)	
v.)	
)	Docket No. 32061
CYNTHIA L. MILLER and JANICE L.)	
SMITH-HILL, as individuals, and MILLER)	
SMITH-HILL & ASSOCIATES,)	
)	
Defendants-Respondents.)	

Appeal from the District Court of the Second Judicial District of the State of Idaho, Latah County. Honorable John H. Bradbury, District Judge.

Mabbutt & Mumford, Moscow, for appellant.

Miller Smith-Hill & Associates, Moscow, for respondents.

Mark Mumford is an attorney. In 2002 he signed a contract with a law firm to work as an independent contractor for the firm. The contract provided that either party could terminate the contract by providing ninety days' written notice to the other party. In May 2003, the law firm terminated the contract immediately.

Mumford sued, alleging the firm breached the contract by violating the terms of the contract relating to termination and by failing to pay him certain amounts due him for 2002 and 2003. The contract at issue required disputes to be resolved through arbitration, so the district court appointed an arbitrator and arbitration proceeded. Relevant to this case, the arbitrator found that Mumford had been damaged by the law firm's breach of the ninety-day termination provision in the amount of about \$940. The arbitrator found further that the balance owed Mumford for his services was about \$10,000. After applying certain offsets in the firm's favor, the arbitrator fixed Mumford's net award at about \$5,800.

The contract provided that if any legal action or arbitration proceeding is brought to enforce the contract due to a dispute, breach, default, or misrepresentation relating to the agreement, the prevailing party shall be entitled to recover attorney fees and costs. Mumford

requested attorney fees and costs but the arbitrator declined to award them. Mumford appealed, asserting that the erred in refusing to award fees.

BOISE, WEDNESDAY, MAY 3, 2006, AT 8:50 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

**IN RE: SRBA CASE NO. 39576 (SUBCASE)
91-63) RE: OWNERSHIP OF WATER)
RIGHTS.)**

**-----)
UNITED STATES OF AMERICA,)**

Appellant-Cross Respondent,)

v.)

**PIONEER IRRIGATION DISTRICT,)
SETTLERS IRRIGATION DISTRICT,)**

Respondents,)

Docket No. 31790

and)

**NAMPA & MERIDIAN IRRIGATION)
DISTRICT, FARMERS COOPERATIVE)
DITCH COMPANY, BOISE VALLEY)
IRRIGATION DISTRICT, NEW DRY)
CREEK DITCH COMPANY, EUREKA)
WATER COMPANY, BALLENTYNE)
DITCH COMPANY, EAGLE ISLAND)
WATER USERS, THURMAN MILL DITCH)
COMPANY, SOUTH BOISE WATER)
COMPANY; FARMERS UNION DITCH)
COMPANY, CANYON COUNTY WATER)
COMPANY, MIDDLETON MILL DITCH)
COMPANY, MIDDLETON IRRIGATION)
ASSOCIATION; COMMITTEE OF NINE,)
TWIN FALLS CANAL COMPANY, NORTH)
SIDE CANAL COMPANY, A & B)
IRRIGATION DISTRICT, BURLEY)
IRRIGATION DISTRICT, FALLS)
IRRIGATION DISTRICT, ABERDEEN-)
SPRINGFIELD CANAL, FREMONT-)
MADISON IRRIGATION DISTRICT,)
PEOPLES CANAL & IRRIGATION,)
SNAKE RIVER VALLEY IRRIGATION,)**

IDAHO IRRIGATION DISTRICT, EGIN)
BENCH CANAL INCORPORATED,)
NORTH FREMONT CANAL SYSTEM,)
PROGRESSIVE IRRIGATION DISTRICT,)
ENTERPRISE IRRIGATION DISTRICT,)
NEW SWEDEN IRRIGATION DISTRICT,)
HARRISON CANAL & IRRIGATION,)
BURGESS CANAL & IRRIGATION,)
PROGRESSIVE IRRIGATION DISTRICT,)
ENTERPRISE IRRIGATION DISTRICT,)
NEW SWEDEN IRRIGATION DISTRICT,)
HARRISON CANAL & IRRIGATION,)
BURGESS CANAL & IRRIGATION, BOISE)
PROJECT BOARD OF CONTROL, NEW)
YORK IRRIGATION DISTRICT, WILDER)
IRRIGATION DISTRICT, BOISE-KUNA)
IRRIGATION DISTRICT, BIG BEND)
IRRIGATION,)
)
)
Respondents-Cross Appellants.)

Appeal from the Snake River Basin Adjudication, District Court of the Fifth Judicial District of the State of Idaho, Twin Falls County. Honorable John M. Melanson, District Judge.

United States Department of Justice, Washington, D.C., attorneys for appellant-cross respondent.

Moffatt, Thomas, Barrett, Rock & Fields, Chartered, Boise, attorneys for respondents, Pioneer Irrigation District and Settlers Irrigation District.

Stoppello & Kiser, Boise, attorneys for respondents-cross appellants Farmers Union Ditch Company, Canyon County Water Company, Middleton Irrigation Association, and Middleton Mill Ditch Company

Ringert Clark Chartered, Boise, attorneys for respondents-cross appellants Ballentyne Ditch Company, Boise Valley Irrigation Ditch Co., Eagle Island Water Users Association, Eureka Water Co., Farmers Cooperative Ditch Co., Nampa & Meridian Irrigation District, New Dry Creek Ditch Company, South Boise Water Company and Thurman Mill Ditch Co.

Barker, Rosholt & Simpson LLP, Boise, attorneys for respondents-cross appellants Boise Project Board of Control, et al., and Committee of Nine, et al.

This case commenced when the United States Bureau of Reclamation (BOR) filed water right claims for irrigation storage, irrigation from storage, and other storage rights from Arrowrock Dam and Reservoir, Lucky Peak Dam and Reservoir, and Anderson Ranch Dam and Reservoir (collectively Boise Project). These three projects were authorized and developed pursuant to the Reclamation Act of 1902 and its subsequent amendments. The parties comprising the irrigation entities have contracts with the BOR for the storage and delivery of the project water, and they filed separate claims to the same water rights consistent with their respective uses.

The Idaho Department of Water Resources (IDWR) recommended the water rights be in the name of the BOR, and that the claims filed by the irrigation entities be disallowed. The irrigation entities filed several objections to IDWR's recommendations, however the only issue in this proceeding is a summary judgment motion addressing the ownership interest of the respective rights.

While the issue was pending before the Special Master, counsel for several of the irrigation entities jointly moved to consolidate the issue of ownership as between the BOR and the irrigation entities, while recognizing there were other issues that varied among the water rights for the three facilities and that the delivery contracts varied between the entities. The judge issued an Order Separating and Consolidating Common Issue From Subcases; Order Rescinding Order of Reference to Special Master as to Consolidated Issue; Order Designating Issue as Consolidated Subcase 91-63; Notice of Scheduling and Status Conference on Consolidated Issue (June 2003 Order). The June 2003 Order permitted parties to the adjudication to participate as parties to the consolidated subcase that were not already, in addition to requiring parties to the subcase to file a statement of issues for purposes of determining whether the issue of ownership interest could be decided as a matter of law. All parties characterized the issue of ownership as a question of law or a mixed question of fact and law. Thereafter, Farmers Union Ditch Company, *et al.*; the United State Department of Interior, Bureau of Reclamation; Ballentyne Ditch Company, *et al.*; Pioneer and Settlers Irrigation Districts; and Boise Project Board of Control, *et al.*; and the Conservation Objectors all filed motions for summary judgment asserting no genuine issue of material fact on the issue of ownership.

Following cross-motions for summary judgment on the issue of ownership of water rights, the SRBA court issued an order on September 3, 2004. It found the United States has nominal legal title to the water rights and the irrigation entities hold equitable title in trust for their landowners. The United States appealed to this Court. Several of the irrigation entities cross-appealed.

BOISE, WEDNESDAY, MAY 3, 2006, AT 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

**IN RE: SRBA CASE NO. 39576 (SUBCASE)
91-63) RE: OWNERSHIP OF WATER)
RIGHTS.)**

**-----)
GENE F. BRAY, THOMAS R. STUART, III,)
THOMAS J. CADE, AMY WILLIAMS,)**

Appellants-Cross Respondents,)

v.)

**PIONEER IRRIGATION DISTRICT,)
SETTLERS IRRIGATION DISTRICT,)**

Respondents,)

and)

**NAMPA & MERIDIAN IRRIGATION)
DISTRICT, FARMERS COOPERATIVE)
DITCH COMPANY, BOISE VALLEY)
IRRIGATION DISTRICT, NEW DRY)
CREEK DITCH COMPANY, EUREKA)
WATER COMPANY, BALLENTYNE)
DITCH COMPANY, EAGLE ISLAND)
WATER USERS, THURMAN MILL DITCH)
COMPANY, SOUTH BOISE WATER)
COMPANY; FARMERS UNION DITCH)
COMPANY, CANYON COUNTY WATER)
COMPANY, MIDDLETON MILL DITCH)
COMPANY, MIDDLETON IRRIGATION)
ASSOCIATION; COMMITTEE OF NINE,)
TWIN FALLS CANAL COMPANY, NORTH)
SIDE CANAL COMPANY, A & B)
IRRIGATION DISTRICT, BURLEY)
IRRIGATION DISTRICT, FALLS)
IRRIGATION DISTRICT, ABERDEEN-)
SPRINGFIELD CANAL, FREMONT-)
MADISON IRRIGATION DISTRICT,)
PEOPLES CANAL & IRRIGATION,)**

Docket No. 31794

SNAKE RIVER VALLEY IRRIGATION,)
IDAHO IRRIGATION DISTRICT, EGIN)
BENCH CANAL INCORPORATED,)
NORTH FREMONT CANAL SYSTEM,)
PROGRESSIVE IRRIGATION DISTRICT,)
ENTERPRISE IRRIGATION DISTRICT,)
NEW SWEDEN IRRIGATION DISTRICT,)
HARRISON CANAL & IRRIGATION,)
BURGESS CANAL & IRRIGATION, BOISE)
PROJECT BOARD OF CONTROL, NEW)
YORK IRRIGATION DISTRICT, WILDER)
IRRIGATION DISTRICT, BOISE-KUNA)
IRRIGATION DISTRICT, BIG BEND)
IRRIGATION DISTRICT,)
Respondents-Cross Appellants.)

Appeal from the Snake River Basin Adjudication, District Court of the Fifth Judicial District of the State of Idaho, Twin Falls County. Honorable John M. Melanson, District Judge.

Laurence “Laird” J. Lucas, Boise; Sara Denniston Eddie, Boise, attorneys for appellant.

Moffatt, Thomas, Barrett, Rock & Fields, Chartered, Boise, attorneys for respondents, Pioneer Irrigation District and Settlers Irrigation District.

Stoppello & Kiser, Boise, attorneys for respondents-cross appellants Farmers Union Ditch Company, Canyon County Water Company, Middleton Irrigation Association, and Middleton Mill Ditch Company

Ringert Clark Chartered, Boise, attorneys for respondents-cross appellants Ballentyne Ditch Company, Boise Valley Irrigation Ditch Co., Eagle Island Water Users Association, Eureka Water Co., Farmers Cooperative Ditch Co., Nampa & Meridian Irrigation District, New Dry Creek Ditch Company, South Boise Water Company and Thurman Mill Ditch Co.

Barker, Rosholt & Simpson LLP, Boise, attorneys for respondents-cross appellants Boise Project Board of Control, et al., and Committee of Nine, et al.

This is a companion appeal to *United States of America v. Pioneer Irrigation District, et al.* This case commenced when the United States Bureau of Reclamation (BOR) filed water right claims for irrigation storage, irrigation from storage, and other storage rights from Arrowrock Dam and Reservoir, Lucky Peak Dam and Reservoir, and Anderson Ranch Dam and Reservoir (collectively Boise Project). These three projects were authorized and developed

pursuant to the Reclamation Act of 1902 and its subsequent amendments. Several irrigation entities have contracts with the BOR for the storage and delivery of the project water and filed separate claims to the same water rights consistent with their respective uses. The appellants in this case, Bray et al., describe themselves as “conservation-minded water users and water right claimants in the SRBA” who are “concerned that the Irrigation Entities are trying to sidestep their federal contracts by using the SRBA to obtain ownership of the Boise Project storage water rights.”

The Idaho Department of Water Resources (IDWR) recommended the water rights be in the name of the BOR, and that the claims filed by the irrigation entities be disallowed. The irrigation entities filed several objections to IDWR’s recommendations, however the only issue in this proceeding is a summary judgment motion addressing the ownership interest of the respective rights. The irrigation entities filed motions for summary judgment asserting no genuine issue of material fact on the issue of ownership. Appellants in this case filed responses to the irrigation entities’ objections throughout the summary judgment proceeding.

The SRBA court issued an order on September 3, 2004, finding the United States has nominal legal title to the water rights and the irrigation entities hold equitable title in trust for their landowners. Bray, et al., appeals and argues this Court should agree with the recommendation of the IDWR.

BOISE, WEDNESDAY, MAY 3, 2006 AT 11:10 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

CAROL L. GUNTER,

Claimant-Appellant,

v.

**MAGIC VALLEY REGIONAL MEDICAL
CENTER, Employer, and IDAHO
COMMERCE & LABOR,**

Defendants-Respondents.

Docket No. 31911

Appeal from the Industrial Commission.

Law Offices of Cynthia J. Woolley, PLLC., Ketchum, for appellant.

Taylor Law Offices, P.A., Twin Falls, for respondents.

Carol L. Gunter (Gunter) appeals from a decision of the Industrial Commission (Commission) denying her unemployment compensation benefits. Gunter worked at Magic Valley Regional Medical Center (MVRMC) as a registered nurse from March, 2002 until August 3, 2004 when she was discharged for failing to report to work for a scheduled shift on July 24, 2004, and failing to respond appropriately when contacted by MVRMC while on-call on July 29, 2004.

After Gunter's discharge she applied for unemployment benefits, which the Department of Commerce and Labor denied. Gunter appealed, and a telephonic hearing was held before an appeals examiner. The Appeals Examiner reversed the denial, and MVRMC appealed to the Commission. The Commission reversed the Appeals Examiner (once again denying Gunter benefits) and issued a written decision. Gunter appeals from this decision.

On appeal, Gunter argues the Commission's decision is not supported by substantial and competent evidence MVRMC informed her she was scheduled to work on July 24, 2004, so it was unreasonable for MVRMC to expect her to comply with a non-existent cell phone policy, and that she did not violate MVRMC's on-call policy's by not returning their calls when the calls were only to inform her that she was being taken off on-call status.

BOISE, FRIDAY, MAY 5, 2006, AT 8:50 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

**IN THE MATTER OF THE)
TERMINATION OF PARENTAL RIGHTS)
AND ADOPTION OF JANE DOE, A)
MINOR CHILD.)**

**-----)
JANE ROE and JOHN ROE,)**

**Petitioners-Respondents-Cross)
Appellants,)**

v.)

JOHN DOE,)

**Respondent-Appellant-Cross)
Respondent.)**

Docket No. 32030

Appeal from the District Court of the Second Judicial District of the State of
Idaho, Nez Perce County. Honorable John K. Butler, District Judge.

Clark & Feeney, Lewiston, for appellant.

Radakovich Law Office, Lewiston, for respondents.

The magistrate division of the district court terminated John Doe's parental rights. Mr. Doe appealed to the district court, which affirmed the order of the magistrate division. On May 5, 2006, the Idaho Supreme Court will hear oral arguments in Mr. Doe's appeal of these orders.

Mr. Doe and Ms. Roe married in 2001. At the time they lived in the Lewiston, Idaho area, but moved to Phoenix, Arizona, shortly thereafter. They separated in July 2001 and in September of that year Ms. Roe filed for divorce. Ms. Roe gave birth to the couple's daughter in January 2002. She and the minor child moved back to Idaho in March 2002. An Arizona court entered a decree of divorce in December 2002, and Ms. Roe and her father, John Roe, filed a petition to terminate Mr. Doe's parental rights in May 2004, claiming he had abandoned the minor child by failing to maintain a normal parental relationship.

The magistrate division found that Mr. Doe had abandoned his minor child by failing to have regular personal contact with her and by failing to provide reasonable support for her. The district court agreed, and Mr. Doe appealed to the Supreme Court.

BOISE, FRIDAY, MAY 5, 2006 AT 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

**RYAN DAVIDSON, an individual, dba THE)
LIBERTY LOBBY OF IDAHO, and THE)
LIBERTY LOBBY OF IDAHO, an)
unincorporated association,)**

Petitioners-Appellants,)

and)

ROBERT BLAKELEY, an individual)

Petitioner,)

v.)

**JANIS WRIGHT, in her capacity as THE)
SUN VALLEY CITY CLERK,)**

Respondent.)

Docket No. 31792

-----)
**THE CITY OF SUN VALLEY, IDAHO, a)
municipal corporation,)**

Plaintiff-Respondent,)

v.)

**RYAN DAVIDSON, an individual, dba THE)
LIBERTY LOBBY OF IDAHO, and THE)
LIBERTY LOBBY OF IDAHO, an)
unincorporated association,)**

Defendants-Appellants,)

and)

ROBERT BLAKELEY,)

Defendant.)

-----)
**RYAN DAVIDSON, an individual, dba THE)
LIBERTY LOBBY OF IDAHO, and THE)
LIBERTY LOBBY OF IDAHO, an)**

unincorporated association,
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 Petitioners,
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 and
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)
 ROBERT BLAKELEY, an individual,
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)
 Petitioner-Appellant,
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 v.
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)
 JANIS WRIGHT, in her capacity as THE
)
 SUN VALLEY CITY CLERK,
)
 Respondent.
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 -----)
 THE CITY OF SUN VALLEY, IDAHO, a
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 municipal corporation,
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 Plaintiff-Respondent,
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 v.
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)
 RYAN DAVIDSON, an individual, dba THE
)
 LIBERTY LOBBY OF IDAHO, and THE
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 LIBERTY LOBBY OF IDAHO, an
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 unincorporated association,
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 Defendants,
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 and
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 ROBERT BLAKELEY,
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 Defendant-Appellant.
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Docket No. 31793

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Blaine County. Honorable Robert James Elgee, District Judge.

Ryan Davidson, Garden City, pro se appellant, dba The Liberty Lobby of Idaho in case 31792.

Robert Blakeley, Hailey, pro se appellant in case 31793.

Hawley, Troxell, Ennis & Hawley, Ketchum, for respondents.

Ryan Davidson, Robert Blakely, and the Liberty Lobby of Idaho (collectively, the Liberty Lobby) appeal from a district court order and judgment granting summary judgment to the City of Sun Valley (the City). In 2004, the Liberty Lobby presented an initiative petition to the Sun Valley City Clerk. The initiative sought to permit the regulated growth, sale and use of marijuana in the City of Sun Valley (the City), to make enforcement of private adult marijuana offenses the lowest law enforcement priority in the City, and to direct the City to advocate for changes in state marijuana laws. The City Clerk rejected the petition, asserting that the proposed initiative was contrary to state law, and was therefore unconstitutional and outside the scope of the City's initiative process.

Arguing that the City Clerk was without authority to rule on the legality of the substance of an initiative petition, the Liberty Lobby brought suit in district court. The City then sued the Liberty Lobby seeking declaratory relief, and the two actions were consolidated. The district court granted summary judgment in favor of the City, and awarded the City costs and a portion of its attorney fees.

On appeal to the Idaho Supreme Court, the Liberty Lobby argues the City followed the wrong procedure in seeking to halt a vote on the initiative. The City, contends the Liberty Lobby, should have waited until the petition was certified and then brought suit against the City Clerk. The Liberty Lobby asserts that the City's decision to take no action until sued by the Liberty Lobby, and to then bring suit against the Liberty Lobby itself, was an abuse of process designed to chill speech. Additionally, the Liberty Lobby argues the City's initiative ordinances are contrary to state law, and that courts are without jurisdiction to review the constitutionality of proposed initiatives until after passage by the voters. In response, the City asserts that it acted properly in seeking a declaratory ruling and in refusing to process an initiative petition dealing with administrative matters as well as matters outside the City's authority.

BOISE, FRIDAY, MAY 5, 2006 AT 11:10 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

JAMES C. ARMSTRONG and SHANNON)	
M. ARMSTRONG,)	
)	
)	
Plaintiffs-Appellants,)	
v.)	Docket No. 31715
)	
)	
FARMERS INSURANCE COMPANY of)	
IDAHO,)	
)	
)	
Defendant-Respondent.)	

Appeal from the District Court of the Fifth Judicial District of the State of Idaho, Twin Falls County. Honorable John K. Butler, District Judge.

Clark Law Office, Twin Falls, for appellants.

Gjording & Fouser, PLLC, Boise, for respondent.

This is an insurance coverage dispute concerning the applicability of Farmers Insurance Company of Idaho's (Farmers Insurance) underinsured motorist coverage in an automobile insurance policy purchased by James and Shannon Armstrong (the Armstrongs). The district court entered summary judgment in favor of Farmers Insurance on the grounds that three separate provisions in the policy barred coverage.

On appeal, the Armstrongs raise three issues, including whether the insurance policy clearly, precisely and specifically excluded Mr. Armstrong from underinsured motorist coverage.

Farmers Insurance rejects the Armstrong's arguments and asks this Court to affirm the district court.

BOISE, MONDAY, MAY 8, 2006, AT 8:50 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

ROGER D. TURNER and SALLY D.)
TURNER, husband and wife,)

Plaintiffs-Respondents,)

v.)

COLD SPRINGS CANYON LIMITED)
PARTNERSHIP, an Idaho limited)
partnership,)

Defendant-Appellant.)

Docket No. 31795

Appeal from the District Court of the Fifth Judicial District of the State of Idaho,
Blaine County. Honorable Robert J. Elgee, District Judge.

Moffatt, Thomas, Barrett, Rock & Fields, Chartered, Boise, attorneys for
appellant.

Lawson & Laski, PLLC, Ketchum, attorneys for respondents.

The Turners filed suit to declare the existence of an easement on Cold Springs' property and to quiet title to this easement. On summary judgment, the district court found in favor of the Turners. Upon doing so, the district court fixed the location and width of the easement. Cold Springs appeals the district court's decision to fix the easement's location and width. Cold Springs asks the Supreme Court to find that the district court erred because (1) a former stipulation and court order (a) created an express easement and (b) allowed for modification of the easement; (2) no implied easement exists; and (3) a court cannot expand an easement beyond its expressed parameters.

BOISE, MONDAY, MAY 8, 2006 AT 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

KELLY SANCHEZ,)	
)	
Plaintiff-Respondent,)	
)	
v.)	Docket No. 32266
)	
STATE OF IDAHO, DEPARTMENT OF)	
CORRECTION,)	
)	
Defendant-Appellant.)	

Appeal from the District Court of the Fourth Judicial District of the State of Idaho, Ada County.
Honorable D. Duff McKee, District Judge.

Honorable Lawrence G. Wasden, Attorney General, Boise, for appellant.

John C. Lynn, Boise, for respondent.

This appeal involves a dispute between the Idaho Department of Correction and its former employee, Sanchez. Sanchez was dismissed from his employment as a correctional officer, but it was later determined the discharge was made without proper cause. Sanchez sought awards of attorney fees and pre-judgment interest against the Department, but the Idaho Personnel Commission ruled it was without authority to make such awards. Specifically, the Commission determined two attorney fee statutes were not applicable to the proceedings and the general language of a third statute did not grant specific authority to award fees. Also, the Commission concluded the Department was immune from a pre-judgment interest award due to sovereign immunity. The Commission's decision was overruled by the district court, which determined there was statutory authority to award attorney fees and that the same statute empowered the Commission to award pre-judgment interest against the Department, as well.

The two main issues on appeal to this Court are (1) whether there is a statutory basis for awarding attorney fees against the Department, and (2) whether sovereign immunity of the Department precludes an award of pre-judgment interest.

BOISE, MONDAY, MAY 8, 2006 AT 11:10 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

GARY W. ANDERSON,

Claimant-Respondent,

v.

**HARPER’S, INC., Employer, and
LIBERTY NORTHWEST INSURANCE
CORPORATION, Surety,**

Defendants-Appellants.

Docket No. 32135

Appeal from the Idaho Industrial Commission. Honorable Chairman Thomas E. Limbaugh, presiding.

Moffatt, Thomas, Barrett, Rock & Fields, Chtd., Boise, for appellants.

Louis Garbrecht, Coeur d’Alene, for respondent.

This is an appeal from the Industrial Commission’s *Findings of Fact, Conclusions of Law and Order*, entered on April 22, 2005, wherein the Commission found that Gary Anderson (Claimant) is now totally and permanently disabled.

On February 22, 2002, Claimant was working at Harper’s, Inc. (Employer), in Post Falls when he was injured at work. He was lifting a heavy object when he felt a pop in his neck and pain. Claimant eventually underwent surgery for a herniated cervical disk, but suffered from continual hand tremors post-surgery. On October 5, 2004, the case came before the Industrial Commission. On April 22, 2005, the Commission issued a *Findings of Fact, Conclusions of Law and Order* wherein the Commission found that the tremors were causally related to the industrial injury and that Claimant is totally and permanently disabled.

On appeal, the appellants argue that: 1) the Commission’s decision was not supported by substantial and competent evidence; 2) the Claimant failed to provide any medical testimony or evidence that showed to a reasonable degree of medical probability that the tremors were caused by the industrial accident; 3) the Commission erred in awarding a permanent impairment for an injury when relying solely on non-medical testimony; and 4) the Commission’s award of attorney fees was in error. Claimant rejects the Appellants’ arguments and asks this Court to uphold the Industrial Commission’s decision and requests attorney fees on appeal.

BOISE, WEDNESDAY, MAY 10, 2006, AT 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

**JEAN WHEELER HAYES, individually and)
on behalf of the Estate of Melvin Lee Hayes,)
deceased; COLIN HAYES and MARCY)
MOAD,)**

Plaintiffs-Appellants,

v.

**UNION PACIFIC RAILROAD COMPANY,)
a Utah corporation,)**

Defendant-Respondent.

Docket No. 31764

Appeal from the District Court of the Fifth Judicial District of the State of Idaho,
Minidoka County. Honorable Monte B. Carlson, District Judge.

Cooper & Larsen, Chtd., Pocatello, for appellants.

Kent W. Hansen, Salt Lake City, Utah, for respondent.

This case involves a wrongful death action following a collision between an automobile driven by the decedent, Melvin Hayes, and a Union Pacific Railroad (UPR) train. Appellants Jean Hayes (surviving spouse) and Colin Hayes and Marcy Moad (surviving children) appeal from a district court decision granting summary judgment in favor of UPR.

Appellants brought suit against UPR, claiming UPR was negligent for failing to blow an emergency whistle pattern prior to the accident, for exceeding the trains internally imposed speed restrictions and for failing to maintain adequate warning devices at the allegedly extra hazardous crossing. The district court granted UPR's summary judgment motion dismissing all three claims. The district court also concluded Hayes was negligent as a matter of law and his negligence was the proximate cause of his death. Appellants appeal from the dismissal of their wrongful death action against UPR.